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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

To: The Commission

REPLY COMMENTS OF NEW PAR

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New Par, by its attorneys, hereby submits this Reply in response to the comments submitted in connection with the Federal Communications Commission's (the "Commission") *Notice of Proposed Rulemaking* ("*NPRM*")[1] and *Order and Supplemental Notice of Proposed Rulemaking* ("*Supplemental NPRM*")[2] in the above-captioned proceeding.

1 Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers and Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers, *Notice of Proposed Rulemaking*, CC Dkt. Nos. 95-185 and 95-54, FCC 95-505 (Released Jan. 11, 1996).

2 Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers and Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers, *Order and Supplemental Notice of Proposed Rulemaking*, CC Dkt. Nos. 95-185 and 95-54, FCC 96-61 (Released Feb. 16, 1996) (extending the comment period and seeking comment on the effect of the Telecommunications Act of 1996 on this proceeding).

I. SUMMARY AND GENERAL COMMENTS

Not surprisingly, local exchange carriers ("LECs") filing comments in this proceeding strongly support the current regulatory regime under which they have exacted excessive interconnection charges from commercial mobile radio service ("CMRS") providers and almost uniformly denied them mutual compensation.[3] Contrary to LEC claims that parties are generally satisfied with existing interconnection agreements, CMRS providers have presented the Commission with extensive evidence demonstrating that the LECs have consistently abused their dominant market power and forced CMRS providers to enter into unjust, unreasonable, and unreasonably discriminatory interconnection arrangements.[4]

The LECs' arguments opposing the Commission's bill and keep proposal are not persuasive. The record reflects the demonstration by CMRS providers that bill and keep is consistent with the Telecommunications Act of 1996 (the "1996 Act")

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3 United States Telephone Association ("USTA") Comments at 4-5; The NYNEX Companies ("NYNEX") Comments at 14; Bell Atlantic Comments at 9-10; SBC Communications Inc. ("SBC") Comments at 13.

4 *See, e.g.*, Westlink Company Comments at 6-14; Point Communications at 1; AirTouch Communications, Inc. ("AirTouch") Comments at 5; AT&T Comments at 8; Sprint Spectrum and American Personal Communications ("Sprint/APC") Joint Comments at 12.

because it reasonably approximates the LECs' long run incremental cost ("LRIC") of providing interconnection to CMRS providers during both LEC peak and off-peak periods.[5] Further, bill and keep is an effective and administratively efficient mechanism for ending the LECs' ongoing abuse of their market power and imposing excessive rates on CMRS providers. As co-carriers, CMRS providers should not be forced to pay interconnection rates far in excess of LEC costs in order to subsidize the LECs' networks.[6] By relieving CMRS providers from the burden of overpayments for terminating traffic and allowing for mutual compensation, bill and keep arrangements will facilitate the development of CMRS as a viable competitor to landline local exchange service.[7]

A number of parties argue that the Commission should defer action on LEC-CMRS interconnection until the general Section 251 rulemaking proceeding.[8]

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5 *See, e.g.*, Cellular Telecommunications Industry Association ("CTIA") Comments at 23-24; AirTouch Comments at 21; Teleport Communications Group, Inc. ("Teleport") Comments at 15.

6 *See infra* part II(A)(3)(a).

7 Although the Public Utilities Commission of Ohio ("PUCO") suggests that the Commission should require any interconnection savings to be passed through directly to CMRS subscribers, neither the Commission nor State commissions are authorized to regulate CMRS subscriber rates. *See* PUCO Comments at 7. Moreover, subscribers could benefit just as much from improved services as they would from lower rates. *See* New Par Comments at 13.

8 PUCO Comments at 10; Frontier Corporation Comments at 5; Puerto Rico Telephone Company Comments ("PRTC") at 2.

Such a delay at this late stage in the rulemaking proceeding would result in a tremendous waste of the Commission's resources. Moreover, given the abbreviated timeframe during which the Commission must implement various provisions of the 1996 Act, the Commission cannot afford to duplicate its efforts by rehearing LEC-CMRS interconnection issues in another proceeding. In fact, by resolving certain basic interconnection issues in this proceeding, the Commission would simplify its general interconnection proceeding.[9] Moreover, nothing in Section 251 precludes the Commission from implementing the 1996 Act's provisions through multiple proceedings, and in fact when Congress intended to preempt ongoing proceedings it made its intentions very clear.[10]

Finally, several parties incorrectly contend that the 1996 Act prohibits imposition of a bill and keep approach.[11] On the contrary, Section 252(d)(2)(B)(i) expressly recognizes bill and keep as an acceptable form of mutual compensation and

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9 The General Services Administration ("GSA"), which filed comments on behalf of the federal government as a consumer of telecommunications services, argues that the interconnection issues in the *NPRM* are ripe for decision and should be addressed prior to the promulgation of the general interconnection rules. GSA Comments at 7.

10 *See, e.g.*, Telecommunications Act of 1996, Pub. L. No. 104-104, § 302(b), 110 Stat. 56 (1996) (terminating the Commission's regulations and policies relating to video dialtone); *see also* § 705 (CMRS providers shall not be required to provide equal access to common carriers for the provision of telephone toll services).

11 Pacific Bell, Pacific Bell Mobile Services and Nevada Bell ("Pacific Bell") Joint Comments at 94; GTE Comments at 36; Bell Atlantic Comments at 6; SBC Comments at 8.

nothing in the 1996 Act deprives the Commission of its authority to mandate such a regime for all LEC-CMRS interconnection arrangements.[12]

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[12] *See* discussion *infra* part II(B)(2)(d).

II. COMPENSATION FOR INTERCONNECTED TRAFFIC BETWEEN LECS' AND CMRS PROVIDERS' NETWORKS

A. Compensation Arrangements

1. Existing Compensation Arrangements

Despite LEC assurances that CMRS providers are receiving mutual compensation and are generally satisfied with their interconnection arrangements,[13] there is substantial and irrefutable evidence to the contrary. The terms of the LECs' interconnection agreements with CMRS providers speak for themselves -- CMRS providers have been consistently overcharged for interconnection services and denied mutual compensation.[14] New Par itself has never received mutual compensation from a LEC. If the Commission had any doubts that LECs are charging excessive interconnection rates and denying CMRS providers mutual compensation, then it could review the publicly available LEC-CMRS interconnection tariffs on file in Michigan, where LEC-CMRS interconnection rates are based on interstate access charges and do not include mutual compensation. In short, the LECs' claim that CMRS providers are receiving mutual compensation is blatantly wrong and misleading.

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[13] *See supra* note 3.

[14] *See supra* note 4.

The LECs also claim that CMRS providers have not filed complaints with the Commission regarding their interconnection rates.[15] Even if the LECs' assertion were true, there are many strategic business reasons why a CMRS provider would not initiate litigation against a monopoly provider of bottleneck facilities, particularly since the extent to which the Commission's mutual compensation requirement applied to intrastate traffic was less than clear. Moreover, even if its complaint were successful, the CMRS provider would risk retaliation on the part of a powerful LEC. Further, such litigation would have been extremely expensive and could also have led to greater regulation by State commissions.

Additionally, the LECs cite to prior statements by CTIA supporting negotiated arrangements over State tariffing requirements as evidence that CMRS providers generally are satisfied with LEC-CMRS interconnection agreements.[16] CTIA's comments have been taken completely out of context. Given a choice between negotiated contracts and tariffed interconnection, CTIA and other parties recognized that private negotiations are preferable because, at least in principle, they afford parties greater flexibility to adapt to particular interconnection needs. Tariffs, on the other hand, simply afford the LECs the opportunity to legitimize their obstinance on mutual compensation and other issues. It is apparent, however, that the LECs will not fully

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15 USTA Comments at 7; Pacific Bell Comments at 27.

16 USTA Comments at 8; GTE Comments at 17 n.17; SBC Comments at 15-16.

negotiate with CMRS providers in good faith. Consequently, CTIA has expressed strong support for the Commission's proposed interconnection rules as a means of facilitating the negotiation of more equitable LEC-CMRS interconnection arrangements.[17]

As the Commission is aware, the LECs' failure to provide just and reasonable interconnection rates is merely the latest example of their consistent intransigence and failure to concede any equitable interconnection terms. The Commission should take swift action to remedy the LECs' blatant disregard for its rules by mandating (1) bill and keep for end office switching and local termination and (2) LRIC-based interconnection rates for dedicated transport, tandem switching, and common transport between CMRS networks and LEC end offices. Further, to the extent that the LRIC for tandem switching and common transport between CMRS networks and LEC end offices also is near zero, the Commission should extend its bill and keep rate structure to these network facilities as well.[18]

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17 *See generally* CTIA Comments.

18 *See, e.g.*, CTIA Comments at 44-45; AirTouch Comments at 21; AT&T Comments at 15; Sprint/APC Comments at 29.

2. General Pricing Principles

The Commission's proposed bill and keep rate structure, which allows LECs and CMRS providers to recover the approximate cost of providing interconnection, is consistent with fundamental pricing principles. Both LECs and CMRS providers support LRIC-based interconnection rates, but the LECs seek to maximize interconnection rates by including shared costs and overhead in their cost recovery.[19] Not only are LEC estimates of shared costs and overhead greatly inflated, but LECs have failed to present the Commission with a practical, cost-effective mechanism for recovering such costs. All of the cost recovery methodologies supported by the LECs would involve detailed cost proceedings, which are prohibited by the 1996 Act.[20] Moreover, such proceedings would give the LECs an opportunity to exact excessive rates and pass through the costs of any potential LEC mismanagement to CMRS providers.

The LECs also argue in favor of market-based pricing of interconnection.[21] This is surely premature since the incumbent LEC is the only conduit for

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19 Pacific Bell Comments at 20; NYNEX Comments at 25; U S WEST, Inc. ("U S WEST") Comments at 33.

20 47 U.S.C. § 252(d)(2)(B)(ii).

21 *See supra* note 3.

CMRS providers to interconnect to the vast majority of landline end users in virtually all areas. The best evidence of the LECs' dominant market power is that current CMRS interconnection rates are neither market-based nor cost-based.[22] There is no reason to believe that existing "market forces" could lead to more equitable interconnection terms for CMRS providers in the near future.

[22] *See supra* note 4.

3. Pricing Proposals (Interim, Long Term, Symmetrical)

The Commission's bill and keep proposal is the best interim and long term rate structure for end office switching and local termination. In fact, Teleport, a competitive LEC, supports the Commission's bill and keep proposal and refutes many of the LEC arguments.[23]

a. *Bill and Keep Does Not Require a Subsidy for CMRS Interconnection, But Rather Constitutes a Reasonable Approximation of the Additional Costs of Providing Interconnection.*

The LECs argue that the Commission's bill and keep rate structure would not allow them to recoup the cost of providing CMRS interconnection, as required by Section 252(d)(2)(A)(i) of the 1996 Act. Based on the LECs' erroneous assumption that they would be left with unrecovered costs as a result of the imbalance in LEC-CMRS traffic, the LECs claim that bill and keep would result in an impermissible subsidy of CMRS interconnection.[24] The fact is that CMRS providers have been forced to provide the LECs with excess interconnection earnings for years by paying interconnection rates far in excess of the LECs' actual costs without receiving mutual

[23] *See generally* Teleport Comments.

[24] Pacific Bell Comments at 13; U S WEST Comments at 34; ALLTEL Comments at 5-6; Anchorage Telephone Utility Comments at 7.

compensation for transporting and terminating LEC-originated traffic on their own networks.[25]

Bill and keep would not result in a subsidy of CMRS interconnection. As the record reflects, cost studies have shown that the LRIC of providing interconnection, particularly end office switching and local termination, is near zero for LEC off-peak traffic.[26] The traffic data collected by CTIA indicates that the peak hour for cellular systems, from 4:00 to 5:00 p.m., does not correspond to LEC peak hours, which typically would appear to be in the late morning or early afternoon hours.[27] New Par's own traffic data is included in and corroborates CTIA's findings.[28] Because most CMRS traffic occurs during LEC non-peak hours, the LECs' LRIC of providing interconnection to CMRS providers is *de minimis*, regardless of whether traffic volumes are equal in both directions.[29]

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[25] *See infra* part II(A)(3)(b).

[26] *See* Gerald W. Brock, "Incremental Cost of Local Usage," at 3-5 (Mar. 16, 1995) ("Brock Study").

[27] Steven R. Brenner & Bridger M. Mitchell, "Economic Issues in the Choice of Compensation Arrangements for Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers," at 14-16 (Mar. 4, 1996) ("CTIA Attachment").

[28] New Par Comments at 12.

[29] Thus, the LECs' rhetoric that bill and keep is "essentially a government handout" has no basis in fact. Roy M. Neel, *Wireless Industry Wants to Plug In*, Wall Street Journal, Mar. 20, 1996, at A15 (Letter to the Editor).

The LECs also ignore the fact that bill and keep would produce significant cost savings for both LECs and CMRS providers by eliminating the need for lengthy negotiations, detailed reporting requirements, and in some cases, interconnection billing. In contrast, the implementation of a usage-sensitive interconnection rate structure would involve complex cost determinations and protracted proceedings. Consequently, the LECs' proposals are plainly inconsistent with Section 252(d)(2)(B)(ii) of the 1996 Act, which prohibits the Commission or State commissions from conducting "any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls."

Further, bill and keep is specifically recognized as reasonable in Section 252(d)(2)(B)(i) and, at least in the case of LEC interconnection to CMRS providers, constitutes a "reasonable approximation" of the LECs' additional costs of terminating such calls under Section 252(d)(2)(A)(ii). Even if the Commission were to conclude, despite all evidence to the contrary, that the LECs would incur more than *de minimis* unrecovered interconnection costs such that bill and keep would not be a reasonable approximation of the incremental cost of providing interconnection going forward, the Commission should adopt bill and keep at least as an interim measure. A particular service (in this case CMRS interconnection) is subsidized if and only if the revenues from the service do not cover the LRIC of providing the service. Therefore, an interim subsidy would exist only if LECs were to demonstrate that their net costs during the interim period are greater than their historical excess earnings. To demonstrate this, LECs would have to show that such historical excess earnings from CMRS interconnection (E) are less than their LRIC (L) and savings (S) going forward during the interim period. The mathematical formula would appear as $E < L + S$ where: [30]

E = LECs' historical excess earnings from CMRS interconnection arrangements (*i.e.*, revenues minus LRIC for all past charges paid by CMRS providers plus savings realized by LECs from not paying CMRS providers for terminating LEC-originated traffic);

L = LECs' actual LRIC going forward during the interim period for terminating CMRS-originated traffic (for those network elements that are included in bill and keep arrangements); and

S = LECs' savings going forward during the interim period as a result of not paying CMRS providers for terminating LEC-originated traffic and not having to incur the costs associated with the billing of this traffic (as described below).

The calculations included as Attachment 1 hereto demonstrate that even if "worst case" figures are used for a five-year interim period, the LECs would not incur any unrecovered costs. Thus, the Commission can specify an interim period of at least five years and ensure that no "subsidy" is imposed on the LECs as a result of bill and keep.

Moreover, if the Commission adopts bill and keep as an interim measure, then the future growth of CMRS will likely obviate the need for a different long

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[30] LECs should bear the burden of demonstrating the amount of their unrecovered costs because of their decade-long denial of mutual compensation to CMRS providers and their status as bottleneck operators and keepers of non-public cost data.

term interconnection rate policy, even assuming more than *de minimis* LEC terminating costs. Over the next few years, as the number of mobile users continues to increase at a faster rate than the general increase in landline usage, the likelihood that a landline call will terminate on a CMRS network also will increase.[31] Further, technological developments such as Caller ID and "smart call forwarding" will encourage more land-to-mobile traffic in the future. Therefore, any unrecovered LEC terminating costs will simply approximate unrecovered CMRS terminating costs. Thus, as many LECs recognize through their LEC-LEC interconnection agreements,[32] LEC terminating costs likely will be off-set by CMRS terminating costs, which actually exceed LEC unit costs due to the highly traffic-sensitive nature of wireless services.

b. The LECs' Other Arguments Against the Commission's Bill and Keep Proposal are Equally Unpersuasive.

The LECs raise a number of other arguments against the Commission's bill and keep proposal, but these arguments are equally unpersuasive. First, the LECs claim that under a bill and keep rate structure, they would not be able to recover interconnection costs from their own subscribers.[33] The cost of providing end office switching and local termination to CMRS providers is near zero, however, and should

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31 Teleport Comments at 17.

32 *See infra* part II(A)(3)(c).

33 USTA Comments at 22; Pacific Bell Comments at 52; Bell Atlantic Comments at 8-9; BellSouth Comments at 19-20.

not necessitate an increase in landline subscriber rates. Moreover, several LECs maintain that LEC-CMRS interconnection is currently priced above LRIC to facilitate the recovery of various costs, including the "fixed common costs" of the network and historical costs that have not yet been accounted for because of uneconomic regulatory depreciation rates.[34] As co-carriers, CMRS providers should not be required to bear the burden of recovering these LEC costs, and therefore the preservation of such contributions and subsidies is an illegitimate basis for opposing the Commission's proposed bill and keep rate structure.

Second, several LECs argue that bill and keep would be an unconstitutional taking.[35] This argument fundamentally misconstrues bill and keep, which does not force parties to provide free interconnection services, but rather recognizes that each party should recoup its own interconnection costs from its own subscribers to the extent that such costs are even unrecovered. Moreover, the Commission's bill and

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[34] William E. Taylor, "Affidavit Concerning Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers," at 12 (Mar. 4, 1996) ("NYNEX Exhibit A"); *see also* U S WEST Comments at 26. GTE attempts to justify its current CMRS interconnection rates by arguing that State Commissions do not permit LECs to pass through their own interconnection costs to subscribers. GTE Comments at 18-19. Under the 1996 Act, however, incumbent LECs are now precluded from collecting these costs from CMRS providers and other co-carriers, regardless of State regulations and policies. 47 U.S.C. §§ 251(b)(5), 251(c)(2)(D).

[35] Pacific Bell Comments at 80; GTE Comments at 13; Bell Atlantic Comments at 8.

keep rate structure does not fit the definition of a "taking" because it does not affect the ownership or occupancy of the LECs' property (*e.g.*, interconnection facilities).[36] To the extent State commissions prevent LECs from recouping unrecovered interconnection costs from their own subscribers, such action could be problematic, but in no event would it affect the constitutionality of the Commission's rate structure.

Third, one party notes that CMRS providers do not utilize bill and keep for roaming.[37] This analogy is fallacious. CMRS providers do not impose roaming charges to recoup the cost of providing interconnection or termination; they do so to collect the cost incurred by the roamer's utilization of the CMRS network (*i.e.*, airtime). Thus, roaming charges are more accurately compared to LEC charges for payphone service (*e.g.*, a non-"home" subscriber utilizing the LEC network).

Fourth, the LECs raise the issue that bill and keep does not account for universal service fund ("USF") payments.[38] The appropriate USF subsidy, if any, that CMRS providers should be required to contribute is an issue beyond the scope of this

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[36] *Bell Atlantic Tel. Cos. v. FCC*, 24 F.3d 1441, 1450 (D.C. Cir. 1994) (a taking must affect the allocation of property rights); *see also* Sprint/APC Comments at 26-27. Bill and keep merely requires the LECs to recover any *de minimis* cost of transporting and terminating CMRS traffic on their own networks from their own subscribers.

[37] Jeffrey H. Rohlfs, Harry M. Shooshan III & Calvin S. Monson, "Bill-and-Keep: A Bad Solution to a Non-Problem," at 21 (Mar. 4, 1996) ("USTA Attachment").

[38] Pacific Bell Comments at 62; Alaska Telephone Association Comments at 7.

proceeding. It should be addressed in the broader context of the Commission's determination of the appropriate competitively neutral USF rates. In any event, universal service contributions can be made in a form other than direct payments to the incumbent LECs, particularly since carriers other than the incumbent LECs will be entitled to USF distributions.[39]

c. The Commission Should Impose a Ceiling on LEC-CMRS Interconnection Rates Equal to the Lowest Rate Charged to a CAP, New Entrant LEC or Neighboring LEC.

If the Commission adopts a bill and keep rate structure only for end office switching and local termination, then the Commission should mandate LRIC-based rates for dedicated transport, tandem switching, and common transport between CMRS networks and LEC end offices. As a safeguard against excessive and discriminatory rates, the Commission should impose a ceiling on LEC-CMRS interconnection rates equal to the lowest rate charged to a competitive access provider ("CAP"), new entrant LEC, or for the reasons discussed immediately below, a rate equal to the rate charged to neighboring LECs on the date the *NPRM* was released.

The LECs argue that CMRS providers should not receive interconnection terms that are comparable to the rates offered to neighboring LECs because traffic

[39] 47 U.S.C. §§ 214(c), 254; *see also* Federal-State Joint Board on Universal Service, *Notice of Proposed Rulemaking and Order Establishing Joint Board*, CC Dkt. No. 96-45, FCC 96-63, at ¶ 128 (Mar. 8, 1996) (requesting comment on whether a non-governmental entity should administer the USF).

between LEC networks is generally balanced.[40] The LECs' claim is, at best, a gross generalization. There is no evidence in the record that LECs have made any attempt to determine the balance of traffic prior to entering into bill and keep arrangements with neighboring LECs. Further, as discussed in detail above, an unequal balance of traffic is relevant as to whether bill and keep is an appropriate rate structure only if LEC terminating costs are more than *de minimis*.[41] In fact, the LEC cost of providing interconnection to CMRS providers is near zero, and therefore the current imbalance in traffic between LEC and CMRS networks is not dispositive.[42] Thus, LEC-LEC interconnection agreements are an appropriate model for LEC-CMRS interconnection agreements.

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40 USTA Comments at 22 n.20; Pacific Bell Comments at 68.

41 *See supra* part II(A)(3)(a).

42 Moreover, as discussed earlier, even if the LECs can demonstrate that their interim interconnection costs are more than *de minimis*, the Commission can still impose bill and keep in light of the historical excess earnings that the LECs have received from CMRS interconnection. *See supra* part II(A)(3)(b).

B. Implementation

2. Jurisdictional Issues

a. The 1996 Act Confirms the Primacy of Federal Law, Including the Commission's Regulations, With Respect to Interconnection Rates.

The LECs generally concede that the 1996 Act empowers the Commission to implement rules and policies governing LEC-CMRS interconnection obligations.[43] Nevertheless, the LECs argue that the Commission can preempt State regulations only where such regulations would substantially prevent implementation of the 1996 Act's requirements and intervene in interconnection proceedings only if a State commission fails to carry out its responsibilities.[44] The LECs' argument, which attempts to minimize the impact of the new federal interconnection requirements and impose artificial limits on the Commission's jurisdiction, is contrary to the plain language and underlying purpose of the 1996 Act.

Section 251(d)(1) of the 1996 Act directs the Commission to "establish regulations to implement the interconnection requirements" of Section 251. Neither the straightforward language of Section 251(d)(1) nor any other provision of Section 251

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[43] *See, e.g.*, USTA Comments at 14; Pacific Bell Comments at 3 n.10.

[44] USTA Comments at 15-16; Pacific Bell Comments at 95.

imposes any limits on the Commission's ability to adopt specific interconnection regulations that are binding on telecommunications services providers or State commissions. In fact, even if the Commission were to adopt regulations that implement only the express provisions of Section 251, its regulations would preempt existing interconnection regulations in many States. Thus, Congress has established certain uniform interconnection requirements and entrusted the Commission, rather than the States, with the task of setting the parameters of these requirements.

In contrast to the Commission's broad authority, the 1996 Act imposes a number of limitations on the States' traditional jurisdiction over interconnection. First, Section 251(d)(3) provides that the Commission may preclude the enforcement of any State regulations or policies that are inconsistent with the requirements of Section 251 or that "substantially prevent" the Commission's implementation of the requirements of Section 251 and the purposes of Part II of the 1996 Act. Second, Section 252(e)(2)(B) requires that a State commission reject an interconnection arrangement adopted by arbitration if it determines that the agreement "does not meet the requirements of Section 251, *including the regulations prescribed by the Commission.*" Third, Section 252(e)(6) provides that a State commission's determination regarding an interconnection agreement is subject to federal district court review to determine whether the agreement meets the requirements of Sections 251 and 252. In other words, the States have the power to approve and enforce interconnection arrangements, but only to the extent their decisions are consistent with federal requirements, including the Commission's regulations.

Despite the LECs' transparent attempt to minimize the impact of the 1996 Act, Sections 251 and 252 cannot be read to codify the existing regulatory regime under which the LECs have been allowed to "negotiate" one-sided interconnection arrangements with CMRS providers and State commissions have had unbridled authority over intrastate interconnection arrangements. Rather, the 1996 Act establishes a new regulatory framework to promote competition in local as well as interstate telecommunications services, to confirm the primacy of federal law regarding LEC interconnection rates, and to preempt all inconsistent State regulations.

b. *The Commission's Authority Over Interconnection Arrangements Includes the Rates Charged for Interconnection Services.*

In a further attempt to limit arbitrarily the Commission's jurisdiction, the LECs argue that Section 251 authorizes the Commission to adopt general guidelines for interconnection rates, while Section 252 gives State commissions primary responsibility for determining the appropriate terms and conditions of interconnection, including rates.[45] Once again, the LECs have misinterpreted the statutory language. As noted above, Section 251(d)(1) directs the Commission to establish regulations to implement

[45] USTA Comments at 14-15; Pacific Bell Comments at 93; ALLTEL Comments at 6-7; NYNEX Comments at 6; Bell Atlantic Comments at 5.